



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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Mark Valente III, Treasurer
Fund for American Opportunity
PO BOX 65796
Washington, DC 20035

JAN 16 2003

Identification Number: C00336297

Reference: Amended Mid-Year Report (1/1/01-6/30/01), received 8/2/01

Dear Mr. Valente:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B supporting Line 21(b) of your report discloses a payment(s) to another political committee(s) for goods and/or services provided by that committee(s). 11 CFR §100.7(a)(1)(iii)(A) states that "...the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution." Examples of goods and services include equipment, supplies, personnel, membership lists and mailing lists. The term "usual and normal charge" for goods is defined as "...the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution". The usual and normal charge for services is defined as "...the hourly or piecemeal charge for the services at a commercially reasonable rate prevailing at the time the services were rendered." 11 CFR §100.7(a)(1)(iii)(B)

Please clarify whether your committee was assessed the usual and normal charge for the goods and/or services you received and explain the steps the political committee(s) took in determining the amount(s) charged to you. If your committee was provided the goods and/or services at less than the usual and normal charge, the difference between the two is considered to be an in-kind contribution by the political committee(s) to your committee and is subject to the limits set forth at 2 U.S.C. §441a. (11 CFR §100.7(a)(1)(iii)(A))

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-Your report discloses no payments for administrative expenses. Administrative expenses are payments made for the purpose of operating a political committee including, but not limited to, rent, utilities, salaries, telephone service, office equipment and supplies. Any such payments to a person aggregating in excess of \$200 in a calendar year must be disclosed on Schedule(s) B supporting Line 21(b) of the Detailed Summary Page. 2 U.S.C. §434(b)(5) If these expenses are being paid by a connected organization, your Statement of Organization must be amended to reflect this relationship. 2 U.S.C. §433(b)(2) In addition, if expenses have been incurred but not paid in a reporting period, the activity should be disclosed as a debt on Schedule D, if the obligation is \$500 or more, or outstanding for sixty days or more. 11 CFR §104.11

Any goods or services provided to your committee by a person, except volunteer activity (i.e., a person's time), would be considered an in-kind contribution from that person, and would be subject to the disclosure requirements of 2 U.S.C. §434(b)(3) and 11 CFR §104.13, and the limitations and prohibitions of 2 U.S.C. §§441a and 441b.

Clarification regarding administrative expenses should be disclosed during each two year election cycle beginning with the first report filed in the non-election year. Please verify that all expenses referenced above (i.e., rent, salaries, utilities, etc.) have been adequately disclosed. If these services have been provided by volunteers, please confirm this in writing.

-Line 18 of the Detailed Summary Page of your report discloses a total of \$1,544 in transfers received from a non-federal account for shared activity. The sum of the entries itemized on Schedule H3, however, indicates the total to be \$7,723. Please amend your report to clarify the discrepancy.

-On Schedule H3 supporting Line 18 of the Detailed Summary Page, you have failed to provide a breakdown of transfers received by the federal account. Please amend your report to include the missing information.

-Schedule H3 of your report discloses transfers-in totaling \$7,723 from your account "Fund for American Opportunity". However, a Schedule H4 has not been filed to disclose any payments for allocable expenses, which is necessary to support such a transfer-in.

Please be advised that transfers for shared activity must be made within a 70-day time period: no more than 10 days before or 60 days after the

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payment to the vendor. 11 CFR §§106.5(g)(2) and 106.6(e)(2). In addition, unless your non-federal account is reimbursing your federal account for allocable activity, the transfer-in of funds from a non-federal account is prohibited by 11 CFR §102.5(a)(1)(i). Please clarify the nature of this transfer-in from the non-federal account.

The Commission recommends that you immediately transfer the impermissible funds received by your federal account, back to your non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

A response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530 (at the prompt press 1, then press 2 to reach the Reports Analysis Division). My local number is (202) 694-1130.

Sincerely,



Antoinette Kitchen
Senior Campaign Finance Analyst
Reports Analysis Division

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